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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 412

[CMS-1647-CN]

RIN 0938-AS78

Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System for Federal Fiscal Year 2017; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects typographical errors in the final rule that appeared in the August 5, 2016 **Federal Register** entitled, “Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System for Federal Fiscal Year 2017”.

DATES: The final rule published August 5, 2016 (81 FR 52056 through 52141) is corrected as of August 30, 2016.

FOR FURTHER INFORMATION CONTACT: Christine Grose, (410) 786- 1362.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2016-18196 (81 FR 52056 through 52141), the final rule entitled, “Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System for Federal Fiscal Year 2017” (hereinafter referred as the FY 2017 IRF PPS final rule), there were typographical errors that are identified and corrected in this correcting document. The correction is applicable as of August 30, 2016.

II. Summary of Errors in the Preamble

On page 52118 of the FY 2017 IRF PPS final rule, we inadvertently included a reference to Table 10 instead of Table 18.

On page 52118 of the FY 2017 IRF PPS final rule, we inadvertently included a reference to Table 10 instead of Table 11.

On page 52118 of the FY 2017 IRF PPS final rule, we inadvertently included a reference to Table 10 instead of Table 16.

On page 52118 of the FY 2017 IRF PPS final rule, we inadvertently included a reference to Table 10 instead of Table 17.

On page 52118 of the FY 2017 IRF PPS final rule, in the footnote to Table 10, we inadvertently included a reference to Table 10 instead of Table 17.

On page 52118 of the FY 2017 IRF PPS final rule, in the footnote to Table 10, we inadvertently included a reference to Table 10 instead of Table 16.

On page 52119 of the FY 2017 IRF PPS final rule, in the footnote to Table 11, we inadvertently included a reference to Table 11 instead of Table 10.

On page 52119 of the FY 2017 IRF PPS final rule, in the footnote to Table 13, we inadvertently included a reference to Table 12 instead of Table 10.

On page 52120 of the FY 2017 IRF PPS final rule, in the footnote to Table 14, in two instances, we inadvertently included a reference to Table 14 instead of Table 10.

On page 52120 of the FY 2017 IRF PPS final rule, in the footnote to Table 15, in two instances, we inadvertently included a reference to Table 15 instead of Table 10.

On page 52121 of the FY 2017 IRF PPS final rule, in the footnote to Table 16, we inadvertently included a reference to Table 16 instead of Table 10.

III. Waiver of Proposed Rulemaking and Delay in Effective Date

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of the proposed rule in the **Federal Register** and provide a period for public comment before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Act requires the Secretary to provide for notice of the proposed rule in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the APA notice and comment and delay in effective date requirements; in cases in which these exceptions apply, sections 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act, as well. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal notice and comment rulemaking procedures for good cause if the agency makes a finding that the notice and comment process is impracticable, unnecessary, or contrary to the public interest; and includes a statement of the finding and the reasons for it in the rule. In addition, section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) of the Act allow the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and the agency includes in the rule a statement of the finding and the reasons for it.

In our view, this correcting document does not constitute a rulemaking that would be subject to these requirements. This document merely corrects typographical errors in the preamble of the FY 2017 IRF PPS final rule. The corrections contained in this document are consistent with, and do not make substantive changes to, the policies and payment methodologies that were adopted subject to notice and comment procedures in the FY 2017 IRF

PPS final rule. As a result, the correction made through this correcting document is intended to resolve inadvertent typographical errors.

Even if this were a rulemaking to which the notice and comment and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the FY 2017 IRF PPS final rule or delaying the effective date of the corrections would be contrary to the public interest because it is in the public interest to ensure that the rule accurately reflects the our policies as of the date they take effect and are applicable. Further, such procedures would be unnecessary, because we are not making any substantive revision to the final rule, but rather, we are simply correcting the **Federal Register** document to reflect the correct table references in the footnotes. For these reasons, we believe there is good cause to waive the requirements for notice and comment and delay in effective date.

IV. Correction of Errors in the Preamble

In FR Doc. 2016-18196 (81 FR 52056), published August 5, 2016, make the following corrections:

1. On page 52118,
 - a. In the second column, in the second full paragraph, line 11, the reference “Table 10” is corrected to read “Table 18”.
 - b. In the third column, in the first partial paragraph, line 2, the reference “Table 10” is corrected to read “Table 11”.
 - c. In the third column, in the first partial paragraph, line 30, the reference “Table 10” is corrected to read “Table 16”.

d. In the third column, in the first partial paragraph, line 37, the reference “Table 10” is corrected to read “Table 17”.

e. In the footnote to Table 10, the phrase “*We refer readers to Table 10” is corrected to read “*We refer readers to Table 17”.

f. In the footnote to Table 10, the phrase “^We refer readers to Table 10” is corrected to read “^We refer readers to Table 16”.

2. On page 52119,

a. In the footnote to Table 11, the phrase “*We refer readers to the Table 11” is corrected to read “*We refer readers to the Table 10”.

b. In the footnote to Table 13, the phrase “*We refer readers to the Table 12” is corrected to read “*We refer readers to the Table 10”.

3. On page 52120,

a. In the footnote to Table 14, the phrase “*We refer readers to the Table 14” is corrected to read “*We refer readers to the Table 10”.

b. In the footnote to Table 14, the phrase “**As is illustrated in Table 14” is corrected to read “**As is illustrated in Table 10”.

c. In the footnote to Table 15, the phrase “*We refer readers to the Table 15” is corrected to read “*We refer readers to the Table 10”.

d. In the footnote to Table 15, the phrase “***As is illustrated in Table 15” is corrected to read “***As is illustrated in Table 10”.

4. On page 52121, in the footnote to Table 16, the phrase “**As illustrated in Table 16” is corrected to read “**As illustrated in Table 10”.

CMS-1647-CN

Dated: August 25, 2016

Madhura Valverde,
Executive Secretary to the
Department,
Department of Health and Human
Services.

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